IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 28424 of 2005(H)

AGAINST THE ORDER DATED 24.9.05 IN IA.1863 of 2005 IN OS.127/2004 of PRL.S.C.,THALASSERY

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PETITIONER:

C. INDIRA, W/O. VASUDEVAN NAIR,
RESIDING AT VASAVAM, MUNDAYAD POST,
KANNUR DISTRICT.

BY ADV. SRI.T.A.RAMADASAN

RESPONDENTS:

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1. M/S. SUPERSTONE BRICKS AND GRANITES,
REP. BY K.T. MEYMI ITS MG.PARTNER,
HAVING ITS OFFICE AT ELAMBERUM,
PALLIVAYAL POST, KARISMBAM, KANNUR DISTRICT.

2. K.T. MAYIMI, S/O. ALIKUTTY,
RESIDING AT 'SHAMROCK', KANNOTHUMCHAL ROAD,
KANNUR.

3. P.C. ASHOK KUMAR, S/O. ACHUTHAN,
RESIDING AT SHANMUGHA VILLA,
TALAP, KANNUR-2.

4. K.T. SHARAFUDDIN, S/O. SOOPY,
RESIDING AT K.T. NEW HOUSE, PALLERY,
NARATH, KANNUR DISTRICT.

5. SAIFUNNISSA MAYIMI,
D/O. MUSTAFFA, RESIDING AT SHAMROCK,
KANNOTHUMCHAL ROAD, KANNUR.

6. SUBIADA ASHRAF, S/O. MUSTAFFA,
RESIDING AT KARISHMA, KANNOTHMCHAL ROAD,
KANNUR-2.

7. K.T. KHALID, S/O. SOOPY,
RESIDING AT K.T. NEW HOUSE,
PALLERY, NARATH, KANNUR DISTRICT.

* 8. STATE OF KERALA REP. BY CHIEF SECRETARY
SECRETARIAT, THIRUVANANTHAPURAM.

8TH RESPONDENT IS STRUCK OFF FROM THE PARTY ARRAY AS PER ORDER DT.5.10.05 IN THE WPC.

R1 AND R7 BY ADV. SRI.A.MOHAMED MUSTAQUE
SRI.KAUSER EDAPPAGATH
R3 & R4 BY ADV. SRI.C.K.SREEJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C)No.28424 OF 2005

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DATED THIS THE 19TH JUNE, 2007

J U D G M E N T

The petitioner, plaintiff in a suit for recovery of money is aggrieved by Exts.P17, P18, P19, P20, 21 and P22 orders which were passed by the learned Sub Judge dismissing various applications filed by the plaintiff at the fag end of trial. Similar reasons have been stated by the learned Sub Judge for dismissing the applications. The learned Sub Judge is certainly right in his view that there was lack of diligence on the part of the petitioner and that there was considerable delay in the matter of filing the applications. At the same time, I am of the view that considerations of justice and the policy that all parties should be allowed to adduce whatever evidence they have at their command to substantiate their claim should have persuaded the learned Sub Judge to allow the applications by imposing terms.

2. Considering the submissions made at the Bar, I set aside Exts.P17, P18, P19, P20, 21 and P22 orders and allow the applications filed by the petitioner on condition that she pays a total amount of Rs.3000/- by way of costs; Rs.1500/- out of the above amount will be paid to the contesting respondents either directly or through their counsel appearing in this Court and Rs.1500/- will be remitted with the

High Court Legal Services Committee. Payment/remittance as directed above will be made by the petitioner within three weeks from today. If payment/remittance is not made as directed above, the impugned orders will stand confirmed. Since the suit is of the year 2004, the learned Sub Judge will make every endeavour to complete the trial and finally dispose of the suit within two months of receiving copy of this judgment.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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